

# Exhibit 266

ATTORNEYS EYES ONLY

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF ALABAMA  
3 SOUTHERN DIVISION  
4

5 IN RE: BLUE CROSS BLUE SHIELD  
6 Master File No. 2:13 CV 20000 RDP  
7 ANTITRUST LITIGATION  
8 MDL NO. 2406  
9

10 VIDEO DEPOSITION OF  
11 DANIEL J. SLOTTJE, PH.D.  
12 Cravath, Swaine & Moore  
13 825 8th Avenue  
14 New York, New York 10019  
15 May 9, 2019  
16

17 \* \* \* CONFIDENTIAL \* \* \*

18 \* \* OUTSIDE ATTORNEYS' EYES ONLY \* \*  
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20 REPORTED BY:

21 Angela Smith McGalliard,  
22 Registered Professional Reporter,  
23 Certified Realtime Reporter,  
24 Certified Shorthand Reporter  
25 and Notary Public.

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1 hospital. Okay?

2 A. Yes.

3 Q. If a Blue does not enter that  
4 county, how is the hospital in that county  
5 harmed?

6 A. Well, they're harmed, because, by  
7 definition, in the real world that is not the  
8 case, they can't enter. And now -- That's how  
9 they are harmed, that answers that question.

10 Q. How would you calculate -- How  
11 would your model work, applied to a hospital in  
12 a county in which a second Blue did not enter  
13 in the but-for world?

14 MR. WHATLEY: Object to the form.

15 A. That's not in my model. My model  
16 is to take the underlying shares from her  
17 model, and as you've discussed, do the harm  
18 estimates. So that's a question -- That  
19 question I can't answer.

20 Q. Right. But your model assumes  
21 that there's entry in the county; correct?

22 A. My model takes the harm estimates  
23 from her model and multiplies them by the  
24 actual allowed amounts and determines damages.  
25 So you're conflating.

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1 that?

2 A. As I said, I don't have an  
3 opinion on that.

4 Q. Do you agree with me that your  
5 model does not account for any hospital that is  
6 not in the second Blue's network?

7 A. As an economist, the only thing I  
8 can say to that is would it be economically  
9 rational to assume that a hospital now could  
10 face more competition, it would increase its  
11 outside option against Blue number one and  
12 ignore them or not get in there, that makes no  
13 sense. Beyond that, I have no opinion.

14 Q. Does your -- Do you agree with me  
15 that your model does not account for the fact  
16 of whether the second Blue --

17 A. Not a fact. We know that it's  
18 not a fact, so let's be careful.

19 Q. Sir, let's not talk over each  
20 other.

21 A. I'm sorry.

22 Q. Do you agree with me that your  
23 model does not account for the possibility of  
24 one of the hospitals in the class not being in  
25 the second Blue's network?

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1           A.           My model -- My model doesn't make  
2           an assumption about that one way or the other.

3           Q.           Isn't it true that your model  
4           assumes that all the hospitals, all one hundred  
5           and six are in the networks of the second Blue?

6           A.           My model assumes all one hundred  
7           and six hospitals, administrators, would be  
8           economically rational, yes, it assumes that.

9           Q.           And you think it's economically  
10          rational that -- that every hospital would be  
11          in every second Blue's network?

12          A.           Yes. For the reasons I just  
13          explained.

14          Q.           Is that what Cigna has in --

15          A.           I don't have an opinion on --

16          Q.           -- in Alabama? Is that what  
17          United has in Alabama?

18          A.           I have -- There's all kinds of  
19          other reasons. And I have no opinion beyond  
20          what I've already said.

21          Q.           Can you name any insurer in  
22          Alabama, other than Blue Cross Blue Shield of  
23          Alabama, that has every hospital in its  
24          network?

25          A.           Has no relevancy in anything I've